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13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15

16 ECHOSPAN, INC.,
17
18 Plaintiff/Counter-Defendant,
19 v.
20 MEDALLIA, INC.,
21 Defendant/Counter-Plaintiff.

Case No. 5:22-cv-01732-NC

**[PROPOSED] JOINT OMNIBUS SEALING
ORDER**

Judge: Hon. Nathanael Cousins

Before the Court, pursuant to this Court's August 23, 2023 Order, Dkt. 269, are Plaintiff/Counter-Defendant EchoSpan, Inc. ("EchoSpan") and Defendant/Counter-Plaintiff Medallia, Inc.'s ("Medallia") Joint Omnibus Proposed Sealing Order.

I. UNOPPOSED SEALING REQUESTS

The Parties seek to maintain the following documents under seal; neither party objects to the sealing of the follow documents. Having considered the papers on file, and good cause having been found, the Court hereby **ORDERS** that the following documents or portions of documents remain under seal.

Documents to Remain Under Seal		Docket Number	Moving Party
Exhibit B to EchoSpan, Inc.'s Motion for Partial Summary Judgment	Pages:15-13-16, 35:21-36:13, 39:15-20, 195	218-5	EchoSpan, Inc.
Exhibit C to EchoSpan, Inc.'s Motion for Partial Summary Judgment		218-6	EchoSpan, Inc.
Exhibit FF to EchoSpan, Inc.'s Motion for Partial Summary Judgment		218-11	EchoSpan, Inc.
Ex. C to Medallia, Inc.'s Motion to for Summary Judgment	Page: 123:15; 124:14; 213:25; 223:19; 123:9-17; 213:1-14;	219-1	EchoSpan, Inc.
Ex. F to Medallia, Inc.'s Motion to for Summary Judgment	Page: 32:5-11	219-2	EchoSpan, Inc.
Ex. G to Medallia, Inc.'s Motion to for Summary Judgment	Page: 137:13; 141:8, 12; 141:11-16	219-3	EchoSpan, Inc.
Ex. NN to Medallia, Inc.'s Motion to for Summary Judgment		219-11	EchoSpan, Inc.
Ex. OO to Medallia, Inc.'s Motion to for Summary Judgment		219-12	EchoSpan, Inc.
Exhibit C to Motion to Exclude	<i>Only</i> table on page 4; all tables and any dollar amounts on pages 7, 8, 12, 14, 19, 23, 24, 25, and 26; paragraph 65 and footnote 58 on page 17; page 18; paragraph 76(b) on page 20; footnote 94 on page 28; and all schedules (but not appendices) to the report	224-2	Jointly

Documents to Remain Under Seal		Docket Number	Moving Party
Exhibit H to Motion to Exclude	Pages: 223:22-25, 308:8-25	224-3	EchoSpan, Inc.
Exhibit K to Motion to Exclude		224-4	EchoSpan, Inc.
Exhibit Q to Motion to Exclude – only “Medallia” half of all screenshots in Exhibits C-1, C-2, and D to report		224-6	EchoSpan, Inc.
Yellow highlighted portions of EchoSpan, Inc.’s Response in Opposition to Medallia, Inc.’s Motion for Summary Judgment	Pages 3:25-4:1	235-3	EchoSpan, Inc.
Yellow Highlighted Portions of Exhibit 1 to EchoSpan’s Response to Medallia’s Motion for Summary Judgment on pages 128 and 300		235-5	EchoSpan, Inc.
Yellow Highlighted Portions of Exhibit 8 to EchoSpan’s Response to Medallia’s Motion for Summary Judgment on Page 144		235-7	EchoSpan, Inc.
Exhibit 9 to Medallia’s Motion for Summary Judgment		235-8	EchoSpan, Inc.
Exhibit 10 to EchoSpan’s Response to Medallia’s Motion for Summary Judgment		235-9	EchoSpan, Inc.
Exhibit 12 to EchoSpan’s Response to Medallia’s Motion for Summary Judgment		235-11	EchoSpan, Inc.
Exhibit 13 to EchoSpan’s Response to Medallia’s Motion for Summary Judgment		235-12	EchoSpan, Inc.
Exhibit 14 to EchoSpan’s Response to Medallia’s Motion for Summary Judgment		235-13	EchoSpan, Inc.
Exhibit 15 to EchoSpan’s Response to Medallia’s Motion for Summary Judgment		235-14	EchoSpan, Inc.
Exhibit 25 to EchoSpan’s Response to Medallia’s Motion for Summary Judgment – only “Medallia” half of all screenshots in Exhibits C-1, C-2, and D to report		235-15	EchoSpan, Inc.
Medallia, Inc.’s Reply in Support of its Motion for Summary Judgment	The second customer’s name on page 8, line 8.	255-1	EchoSpan, Inc.
Ex. 2 to Medallia, Inc.’s Reply in Support of its Motion to Exclude Testimony		255-4-2	EchoSpan, Inc.

Documents to Remain Under Seal	Docket Number	Moving Party
Yellow and blue highlighted portions of Defendant's Notice of Motion and Motion for Summary Judgment and 22:1-7	217-3	Medallia,, Inc.
Yellow highlighted portions of Ex. A to Defendant's Motion for Summary Judgment	217-4	Medallia, Inc.
Ex. B to Defendant's Motion for Summary Judgment	217-5	Medallia, Inc.
Ex. I. to Defendant's Motion for Summary Judgment	217-6	Medallia, Inc.
Ex. J to Defendant's Motion for Summary Judgment	217-7	Medallia,, Inc.
Yellow highlighted portions of Ex. K to Defendant's Motion for Summary Judgment	217-8	Medallia,, Inc.
Yellow highlighted portions of Ex. L to Defendant's Motion for Summary Judgment	217-9	Medallia,, Inc.
Yellow highlighted portions of Ex. M to Defendant's Motion for Summary Judgment	217-10	Medallia,, Inc.
Yellow highlighted portions of Ex. N to Defendant's Motion for Summary Judgment	217-11	Medallia,, Inc.
Ex. U to Defendant's Motion for Summary Judgment	217-12	Medallia,, Inc.
Yellow and blue highlighted portions of Defendant's Notice of Motion and Motion to Exclude Testimony of Plaintiff's Experts	223-3	Medallia,, Inc.
Yellow highlighted portions of Ex. A to Defendant's Motion to Exclude Testimony of Plaintiff's Experts	223-4	Medallia,, Inc.
Yellow highlighted portions of Ex. B to Defendant's Motion to Exclude Testimony of Plaintiff's Experts	223-5	Medallia,, Inc.
Ex. D to Defendant's Motion to Exclude Testimony of Plaintiff's Experts	223-6	Medallia,, Inc.
Yellow highlighted portions of Ex. E to Defendant's Motion to Exclude Testimony of Plaintiff's Experts	223-7	Medallia,, Inc.
Ex. F to Defendant's Motion to Exclude Testimony of Plaintiff's Experts	223-8	Medallia,, Inc.
Yellow highlighted portions of Ex. G to Defendant's Motion to Exclude Testimony of Plaintiff's Experts	223-9	Medallia,, Inc.

Documents to Remain Under Seal	Docket Number	Moving Party
Yellow highlighted portions of Ex. I to Defendant's Motion to Exclude Testimony of Plaintiff's Experts	223-10	Medallia,, Inc.
Ex. L to Defendant's Motion to Exclude Testimony of Plaintiff's Experts	223-11 and 223-12	Medallia,, Inc.
Yellow highlighted portions of Ex. M to Defendant's Motion to Exclude Testimony of Plaintiff's Experts	223-13	Medallia,, Inc.
Ex. P to Defendant's Motion to Exclude Testimony of Plaintiff's Experts	223-14	Medallia,, Inc.
Yellow highlighted portions of Ex. R to Defendant's Motion to Exclude Testimony of Plaintiff's Experts	223-15	Medallia,, Inc.
Blue highlighted text on page 7 of EchoSpan's Memorandum of Points and Authorities ISO Plaintiff's Motion for Partial Summary Judgment	220-1	Medallia,, Inc.
Highlighted text in Ex. I to EchoSpan's Memorandum of Points and Authorities ISO Plaintiff's Motion for Partial Summary Judgment	220-3	Medallia,, Inc.
Highlighted text on pages 17, 92, and 93 of Ex. K to EchoSpan's Memorandum of Points and Authorities ISO Plaintiff's Motion for Partial Summary Judgment	220-4	Medallia,, Inc.
Ex. L to EchoSpan's Memorandum of Points and Authorities ISO Plaintiff's Motion for Partial Summary Judgment	220-5	Medallia,, Inc.
Ex. M to EchoSpan's Memorandum of Points and Authorities ISO Plaintiff's Motion for Partial Summary Judgment	220-6	Medallia,, Inc.
Ex. N to EchoSpan's Memorandum of Points and Authorities ISO Plaintiff's Motion for Partial Summary Judgment	220-7	Medallia,, Inc.
Ex. T to EchoSpan's Memorandum of Points and Authorities ISO Plaintiff's Motion for Partial Summary Judgment	220-12	Medallia,, Inc.
Ex. DD to EchoSpan's Memorandum of Points and Authorities ISO Plaintiff's Motion for Partial Summary Judgment	220-19	Medallia,, Inc.
Ex. EE to EchoSpan's Memorandum of Points and Authorities ISO Plaintiff's Motion for Partial Summary Judgment	220-20	Medallia,, Inc.
Ex. FF to EchoSpan's Memorandum of Points and Authorities ISO Plaintiff's Motion for Partial Summary Judgment	218-11	Jointly
Ex. GG to EchoSpan's Memorandum of Points and Authorities ISO Plaintiff's Motion for Partial Summary Judgment	220-21	Medallia,, Inc.

Documents to Remain Under Seal	Docket Number	Moving Party
Ex. HH to EchoSpan's Memorandum of Points and Authorities ISO Plaintiff's Motion for Partial Summary Judgment	220-22	Medallia,, Inc.
Pages MEDALLIA276689–MEDALLIA276693, MEDALLIA276695, MEDALLIA276697, and MEDALLIA276708 of Ex. JJ to EchoSpan's Memorandum of Points and Authorities ISO Plaintiff's Motion for Partial Summary Judgment and the second to last message on page MEDALLIA276687 of Ex. JJ.	220-23	Medallia,, Inc.
Ex. PP to EchoSpan's Memorandum of Points and Authorities ISO Plaintiff's Motion for Partial Summary Judgment	220-29	Medallia,, Inc.
Ex. QQ to EchoSpan's Memorandum of Points and Authorities ISO Plaintiff's Motion for Partial Summary Judgment	220-30	Medallia,, Inc.
Page MEDALLIA27748 to Ex. RR to EchoSpan's Memorandum of Points and Authorities ISO Plaintiff's Motion for Partial Summary Judgment	220-31	Medallia,, Inc.
Yellow and blue highlighted portions of Defendant's Response in Opposition to Plaintiff's Motion for Partial Summary Judgment	239-3	Medallia,, Inc.
Yellow highlighted portions of Ex. L to Defendant's Response in Opposition to Plaintiff's Motion for Partial Summary Judgment	239-4	Medallia,, Inc.
Blue highlighted portions of Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment <i>only</i> on page 4, lines 21-22 on page 7, and the dollar figure on line 13 of page 16.	236-1	Medallia,, Inc.
Blue highlighted portions of Appendix A to Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment <i>only</i> on pages 6, 7, 8, 30, and 33 (excluding the phrase "acquiring EchoSpan"); in the left column of pages 18, 19, 21, 22, 23, 24, and 25; in the second from the top box in the right column on page 23; and in the top right box on page 27.	236-2	Medallia,, Inc.
Exhibit 3 to Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment	236-4	Medallia,, Inc.
Exhibit 6 to Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment	236-6	Medallia,, Inc.
Exhibit 17 to Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment	236-8	Medallia,, Inc.
Exhibit 18 to Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment	236-9	Medallia,, Inc.
Exhibit 19 to Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment	236-10	Medallia,, Inc.

Documents to Remain Under Seal	Docket Number	Moving Party
Exhibit 20 to Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment	236-11	Medallia,, Inc.
Exhibit 21 to Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment	236-12	Medallia,, Inc.
Exhibit 22 to Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment	236-13	Medallia,, Inc.
Exhibit 23 to Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment	236-14	Medallia,, Inc.
Exhibit 26 to Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment	236-15	Medallia,, Inc.
Exhibit 31 to Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment	236-18	Medallia,, Inc.
Exhibit 32 to Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment	236-19	Medallia,, Inc.
Exhibit 33 to Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment	236-20	Medallia,, Inc.
Exhibit 35 to Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment	236-22	Medallia,, Inc.
Exhibit 37 to Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment	236-24	Medallia,, Inc.
Exhibit 42 to Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment	236-26	Medallia,, Inc.
Exhibit 45 to Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment	236-29	Medallia,, Inc.
Exhibit 47 to Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment	236-31	Medallia,, Inc.
Exhibit 48 to Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment	236-32	Medallia,, Inc.
Blue highlighted text on only the last page of Exhibit 4 to Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment	236-5	Medallia,, Inc.
Exhibit 39 to Plaintiff EchoSpan, Inc's Response In Opposition To Defendant Medallia Inc's Motion For Summary Judgment only at page 194, line 22	236-25	Medallia,, Inc.
Dollar figure on line 7 of page 1 of Plaintiff EchoSpan, Inc's	236-33	Medallia,,

Documents to Remain Under Seal	Docket Number	Moving Party
Opposition To Motion To Exclude Testimony Of Plaintiffs Experts		Inc.
Yellow and blue highlighted portions of Defendant's Reply in Support of its Motion for Summary Judgment	254-3	Medallia,, Inc.
Yellow highlighted portions of Ex. O to Defendant's Reply in Support of its Motion for Summary Judgment	254-4	Medallia,, Inc.
Yellow and blue highlighted portions of Defendant's Reply in Support of its Motion to Exclude Testimony of Plaintiff's Experts	254-5	Medallia,, Inc.

II. OPPOSED SEALING REQUESTS

The Parties seek to maintain the following documents or portions of documents under seal; as noted, the sealing of the following is contested. Having considered the papers on file, the Court hereby **ORDERS** as follows with respect to each contested document or portion of document.

Document at Issue	Docket No.	Moving Party	Moving Party's Support	Opposing Party	Opposition	Order
Yellow Highlighted Portions of Memorandum of Law in Support of EchoSpan, Inc.'s Motion for Partial Summary Judgment	218-3	EchoSpan, Inc.	Contains description of EchoSpan's confidential tool functionality	Medallia, Inc.	EchoSpan has previously confirmed that this information is <i>not</i> confidential. <i>See</i> Dep. of J. Vance as Corp. Rep. for EchoSpan [Dkt. 219-1] at 108:24–109:11.	
Exhibit A to EchoSpan, Inc.'s Motion for Partial Summary Judgment	218-4	EchoSpan, Inc.	Contains extensive descriptions and screenshots of EchoSpan's and Medallia's tools the Court has	Medallia, Inc.	Medallia opposes EchoSpan's request to seal the <i>entirety</i> of Exhibit A. In particular, nothing on the pages	

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Document at Issue	Docket No.	Moving Party	Moving Party's Support	Opposing Party	Opposition	Order
			previously determined this document was properly sealed (Dkt. 215)		preceding the screenshots can even arguably be considered to be confidential and EchoSpan offers no valid justification for sealing those pages. EchoSpan's statement that the court previously determined that sealing the entire document is appropriate is misleading, as the Court denied a challenge to confidentiality after Medallia withdrew the challenge due to the particular issue before the Court being moot while reserving the right to re-raise the issue. Also, the features and functions described in certain portions of	

Document at Issue		Docket No.	Moving Party	Moving Party's Support	Opposing Party	Opposition	Order
						the report is all public information.	
Yellow Highlighted Portions of Exhibit B to EchoSpan, Inc.'s Motion for Partial Summary Judgment	Pages: 81:25-82:15, 184, 260, 293, 298:23	218-5	EchoSpan, Inc.	Describes confidential aspects of EchoSpan's tool security and functionality and client identity		Medallia opposes the request to seal lines 81:25–82:15 as such information is presented to numerous users <i>before</i> agreeing to any Terms and Conditions, and such information cannot in good faith be argued to be confidential. Medallia also opposes the request to seal the entirety of page 184, as this is general information about Veracode that is not confidential and not specific to EchoSpan at all. Medallia opposes the request to seal page 260, as the information is publicly available on EchoSpan's website. <i>See, e.g.,</i>	

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Document at Issue		Docket No.	Moving Party	Moving Party's Support	Opposing Party	Opposition	Order
						https://www.echospan.com/reseller-program.asp ; https://www.echospan.com/product-guides/three-excellent-features-for-consultants ; https://www.echospan.com/blog/echospan's-dedicated-resources-for-consultants . Medallia opposes the request to seal the yellow highlighted information on page 293, as the information is publicly available on EchoSpan's website. <i>See, e.g.,</i> https://www.echospan.com/user-guides/generating-reports-and-data-exports ; https://www.echospan.com/article-detail.asp?articleid=19 ; https://www.echospan.com/~public_docs/Engag	

Document at Issue	Docket No.	Moving Party	Moving Party's Support	Opposing Party	Opposition	Order
					<p>ement_Survey_Setup_Guide_2020.pdf. Medallia also opposes the sealing of the customer name on page 298, as the information is publicly available. See, e.g., https://careers.bankofamerica.com/content/dam/careers/edpn/APAC_EDPN_CDPN_China.pdf; https://www.echospan.com/product-guides/lorri-na-eastman. In fact, <i>EchoSpan's</i> public filings in <i>this case</i> reveal the identity of this company. See Dkts. 11, 24, 43.</p>	
Exhibit D to EchoSpan, Inc.'s Motion for Partial Summary Judgment	218-7	EchoSpan, Inc.	Reflects terms of confidential employment agreement	Medallia, Inc.	This document is not confidential. It is merely an employment agreement. By its own terms, it is not confidential	

Document at Issue	Docket No.	Moving Party	Moving Party's Support	Opposing Party	Opposition	Order
					because the definition of confidential information in the agreement does not include the agreement. Medallia has no objection to a narrowly tailored sealing request as to salary information, but it opposes EchoSpan's request to wholesale seal a document for which there is no basis to assert confidentiality.	
Exhibit E to EchoSpan, Inc.'s Motion for Partial Summary Judgment	218-8	EchoSpan, Inc.	Reflects terms of confidential contractor agreement	Medallia, Inc.	Same as above for Exhibit D.	
Exhibit R to EchoSpan, Inc.'s Motion for Partial Summary Judgment	218-9	EchoSpan, Inc.	Contains screenshot of non-public EchoSpan webpage reflecting security processes	Medallia, Inc.	This is not confidential. It is an account sign up page that users fill out <i>before</i> agreeing to any Terms and Conditions. If users see it <i>before</i> agreeing (or	

Document at Issue	Docket No.	Moving Party	Moving Party's Support	Opposing Party	Opposition	Order
					not agreeing) to any purported confidentiality agreement, it cannot even arguably be confidential.	
Exhibit X to EchoSpan, Inc.'s Motion for Partial Summary Judgment	218-10	EchoSpan, Inc.	Reflects confidential internal identification and system configuration settings	Medallia, Inc.	This exhibit is not confidential. It is a purported log of when <i>Medallia</i> employees allegedly accessed EchoSpan's free trial. As this information would be known by the users themselves, EchoSpan has no basis to assert its confidentiality.	
Exhibit II to EchoSpan, Inc.'s Motion for Partial Summary Judgment	218-12	EchoSpan, Inc.	Reflects screenshots of EchoSpan's confidential system	Medallia, Inc.	These are screenshots of, or identical information as in, EchoSpan's <i>publicly available</i> video tutorials. See, e.g., https://www.echospan.com/product-guides/review	

Document at Issue	Docket No.	Moving Party	Moving Party's Support	Opposing Party	Opposition	Order
					w-and-edit-email-templates; https://www.echospan.com/product-guides/setup-rater-relationship-groups.	
Memorandum in Support of Medallia, Inc.'s Motion for Summary Judgment	<p>Pages: 1:3, 4, 21, 22; 2:10, 16-17; 3:15, 17, 18, 4:4, 9-10, 12; 13:15, 22-28; 14:1; 21:16, 19; 26:6, 10; 35:3, 5-6, 9-11, 13, 15, 16; 5:21, 24</p> <p>14:18, 20, 21, 22, 24-25; 17:13-24; 18:8-9; 22:26-23:1; 26:10-12;</p>	217-3	EchoSpan, Inc.	<p>Contains or reveals the identity of EchoSpan's customers or former customer</p> <p>Contains the identification of and descriptions of EchoSpan's trade secrets</p>	Medallia, Inc.	<p>This is all publicly available information, as Medallia has repeatedly shown.</p> <p>As to the information on pages 21-23, none of its reveals the terms of any agreements except for the quoted language at 22:1-7. So, the remainder cannot be considered confidential.</p>

Document at Issue	Docket No.	Moving Party	Moving Party's Support	Opposing Party	Opposition	Order
	21:16-22, 25-26; 22:17-20; 23:4-9, 11-20		Reveals the terms of EchoSpan customer agreements			
Ex. C to Medallia, Inc.'s Motion to for Summary Judgment	Pages: 39:15-20; 94:4-9, 16, 24; 122:10; 165:16; 170:3-4, 16; 175:1; 200:17; 212:1-5, 14-15; 236:2; 245:2; 258:11, 17, 20; 259:9, 18;	219-1	EchoSpan, Inc.	Contains or reveals the identity of EchoSpan's customers or former customer (<i>see also</i> Dkt. 191)		As Medallia has previously shown, the identity of the former customer is publicly available information. As Medallia has shown, the identification of various features or functions is publicly available information or conceded

Document at Issue	Docket No.	Moving Party	Moving Party's Support	Opposing Party	Opposition	Order
43:5-24; 50:8- 51:25; 54:7- 55:21; 129:1-9; 261:2-9; 261:25- 262:5; 266:2-4, 14-18; 269:2-14; 270:1-25; 272:14- 16; 273:2- 275:25;			Describes confidential and trade secret elements of EchoSpan's 360 System		by EchoSpan's corporate representative. EchoSpan even goes so far as to request sealing of deposition testimony where its corporate representative expressly states that something is <i>not confidential</i> . See, e.g., Page 55 of the Exhibit.	
122:21-25; 258:11-22;			Reveals confidential client operations		There is also no basis to find that the company providing server hosting services or the location of EchoSpan's servers is confidential. Indeed, EchoSpan makes information about its hosting providers (identificati	
129:1-9; 194:20- 197:15;			Describes confidential elements of EchoSpan's 360 server hosting			
174:20- 175:2			Quotes from a confidential information memorandum			

Document at Issue	Docket No.	Moving Party	Moving Party's Support	Opposing Party	Opposition	Order
309:1-6			Describes confidential employment terms		on of company and location of servers) publicly available. See, e.g., https://www.echospan.com/articles/important-notice:-datacenter-migration-scheduled-for-june-30th ("EchoSpan's network hosting provider, Rackspace, recently opened its newest data center facility in the Dallas area. With this change, Rackspace is closing its existing data center in Dallas where EchoSpan's network currently resides. As a result, EchoSpan's servers are being migrated from its existing datacenter to the new one."); and https://www.echospan.c	

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Document at Issue		Docket No.	Moving Party	Moving Party's Support	Opposing Party	Opposition	Order
						<p>om/network.asp (“All EchoSpan servers are hosted with Microsoft Azure in Dublin, Ireland with a disaster recovery facility at Rackspace in Dallas, Texas. “).</p> <p>While certain portions of the Confidential Information Memorandum may warrant sealing, the quoted language here does not. It is not even confidential.</p> <p>There is nothing confidential about the referenced employment terms and no agreements requires any employee to keep such information confidential.</p>	

Document at Issue		Docket No.	Moving Party	Moving Party's Support	Opposing Party	Opposition	Order
Ex. F to Medallia, Inc.'s Motion to for Summary Judgment	Pages: 32:24, 158:3, 7, 10, 16, 25; 169:3, 20, 24; 188:17;	219-2		Contains or reveals the identity of EchoSpan's customers or former customer	Medallia, Inc.	As discussed above, this information is all publicly available or conceded by EchoSpan's corporate representative to not be confidential.	
	144:23-145:2, 5, 14-17, 19-20, 24-25; 146:13-14, 21-22; 147:5-7, 15-21, 24-25; 148:3-5, 14-15, 19-21; 188:5, 7-11; 189:6-7, 20-21; 190:1, 3-4			Describes confidential and trade secret elements of EchoSpan's 360 System			
Ex. G to Medallia, Inc.'s Motion to	Page: 90:11; 127:7-24; 136:7, 25;	219-3	EchoSpan, Inc.	Contains or reveals the identity of EchoSpan's	Medallia, Inc.	Same as discussed	

Document at Issue	Docket No.	Moving Party	Moving Party's Support	Opposing Party	Opposition	Order
for Summary Judgment	141:19; 142:12, 16, 19, 23, 143:10, 14;		customers or former customer;		above as to Exhibit C.	
	37:22-24; 41:18-25; 42:18-23; 45:8-12; 46:4-11;		Reflects terms of confidential employment agreement			
	90:10-11;		Describes confidential elements of EchoSpan's 360 server hosting			
	107:13-18; 108:20-23; 136:1-137:16; 141:20; 142:10-21		Describes confidential and trade secret elements of EchoSpan's 360 System			
Ex. W to Medallia, Inc.'s Motion to for Summary Judgment, numbered paragraphs 1-8 and attachments to the communication	219-5	EchoSpan, Inc.	Reflects confidential business information, including financial information and a confidential business memorandum	Medallia, Inc.	Much of this information is public or does not rise to the level of warranting sealing, such as the number of employees EchoSpan has, the identification of EchoSpan's	

Document at Issue	Docket No.	Moving Party	Moving Party's Support	Opposing Party	Opposition	Order
					hosting service providers, and the identification of a customer. Medallia would agree to narrowly tailored redactions of the financial information in the document, but the wholesale sealing of this document would be improper.	
Ex. Z to Medallia, Inc.'s Motion to for Summary Judgment	219-6	EchoSpan, Inc.	Reflects EchoSpan's confidential server and security environment	Medallia, Inc.	Nothing in this document meets the standard of "compelling reasons" to warrant sealing. Furthermore, this document was provided to Medallia under an April 2021 NDA with a <i>now expired</i> two-year confidentiality period.	
Ex. AA to Medallia, Inc.'s Motion to for Summary Judgment	219-7	EchoSpan, Inc.	Reflects confidential business communicati	Medallia, Inc.	Nothing in this document meets the	

Document at Issue	Docket No.	Moving Party	Moving Party's Support	Opposing Party	Opposition	Order
			on regarding customer		standard of "compelling reasons" to warrant sealing.	
Ex. BB to Medallia, Inc.'s Motion to for Summary Judgment	219-8	EchoSpan, Inc.	Confidential communication with client	Medallia, Inc.	This communication does not fall within the confidentiality provision of EchoSpan's agreement with this former client.	
Ex. H to Medallia, Inc.'s Motion to for Summary Judgment	219-4	EchoSpan, Inc.	Confidential communication with client	Medallia, Inc.	This communication does not fall within the confidentiality provision of EchoSpan's agreement with this former client.	
Green Highlighted Portions of Ex. KK to Medallia, Inc.'s Motion to for Summary Judgment	219-9	EchoSpan, Inc.	The court has previously held that these portions of the Complaint are properly sealed, Dkt. 214	Medallia, Inc.	As Medallia has repeatedly and extensively shown, EchoSpan has made all of this information publicly available.	
Ex. LL to Medallia, Inc.'s Motion to for Summary Judgment	219-10	EchoSpan, Inc.	Confidential communication with client, which includes	Medallia, Inc.	This communication does not fall within the	

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			confidential access credentials		confidentiality provision of EchoSpan's agreement with this former client. Furthermore, it provides a publicly available link. Medallia has no objection to narrowly tailored redaction of only the access credentials. But there is no basis to seal the remainder of the document.	
Medallia's, Inc.'s Motion to Exclude Testimony of Plaintiff's Experts	224-1	EchoSpan, Inc.	Contains or reveals the identity of EchoSpan's customers or former customer	Medallia, Inc.	As Medallia has repeatedly shown, the identity of EchoSpan's former customer is publicly available.	
Exhibit C to Motion to Exclude (Except portions unopposed noted above)	224-2	EchoSpan, Inc.	This damages expert report contains financial information about EchoSpan	Medallia, Inc.	Medallia has expressly excepted from its objection the portions of the report containing financial information. There is no	

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						basis to seal the <i>entire</i> document and EchoSpan provides no basis, thus failing on <i>its</i> burden.	
Exhibit H to Motion to Exclude	Pages: 221:20-223:21	224-3	EchoSpan, Inc.	Discussing confidential client pricing	Medallia, Inc.	No specific prices are mentioned. The general statements about pricing do not warrant sealing.	
Exhibit O to Motion to Exclude	Pages: 147:5-9, 147:12, 25	224-5	EchoSpan, Inc.	Confidential client communication; confidential information taken from damages report	Medallia, Inc.	Nothing in this portion of the deposition is confidential. The portion of the damages report referred to is not confidential information. None of the referenced testimony contains any communication with a client. The mere identification of certain features that EchoSpan publicly advertises on its website is not confidential.	

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Exhibit Q to Motion to Exclude (except portions unopposed noted above)	224-6	EchoSpan, Inc.	Report describes, throughout and in detail, functioning of EchoSpan and Medallia systems, including screenshots of each; the court has previously granted EchoSpan's motion to retain the confidentiality of this document, Dkt. 215	Medallia, Inc.	Medallia opposes EchoSpan's request to seal the <i>entirety</i> of this exhibit. In particular, nothing on the pages preceding the screenshots can even arguably be considered to be confidential and EchoSpan offers no valid justification for sealing those pages. EchoSpan's statement that the court previously determined that sealing the entire document is appropriate is misleading, as the Court denied a challenge to confidentiality after Medallia withdrew the challenge due to the particular issue before the Court being moot	

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					while reserving the right to re-raise the issue. Also, the features and functions described in certain portions of the report is all public information.	
Yellow highlighted portions of EchoSpan, Inc.'s Response in Opposition to Medallia, Inc.'s Motion for Summary Judgment (except pages 3:25-4:1)	235-3	EchoSpan, Inc.	Reflects identity of confidential client and income derived therefrom; describes EchoSpan Trade Secrets; reveals confidential pricing information	Medallia, Inc.	The customer's <i>identity</i> , however, is <i>not confidential</i> . As previously noted, the LinkedIn profile of an employee of that customer states that EchoSpan was a vendor of the customer and provided it a 360-feedback survey tool. Other websites also identify EchoSpan's customer. <i>E.g.</i> , https://www.datanyze.com/companie	

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					<p>s/echospan/346845369. In fact, EchoSpan's own <i>public</i> filings in this case identify the customer. Dkts. 11, 24, 43. Therefore, none of the mentions of the name of the customer should be sealed.</p> <p>As Medallia extensively showed in its opposition to EchoSpan's motion to seal, each of the items alleged to be trade secrets is public information on YouTube and EchoSpan's own website. <i>See</i> Dkt. 245.</p> <p>The pricing information is not confidential. The asking price was demanded by</p>	

Document at Issue	Docket No.	Moving Party	Moving Party's Support	Opposing Party	Opposition	Order
					EchoSpan <i>before</i> the parties agreed to any NDA. This is information that EchoSpan voluntarily disclosed to Medallia without any confidentiality agreement in place. In any event, the NDA has expired by its own terms.	
Yellow Highlighted Portions of Exhibit 1 to EchoSpan's Response to Medallia's Motion for Summary Judgment (except on pages 128 and 300)	235-5	EchoSpan, Inc.	Reflects identity of confidential client and income derived therefrom; describes EchoSpan Trade Secrets; reveals confidential pricing information	Medallia, Inc.	As discussed above with respect to the same deposition, none of this information is confidential.	
Exhibit 2 to EchoSpan's Response to Medallia's Motion for Summary Judgment	235-6	EchoSpan, Inc.	Reflects EchoSpan's Trade Secrets	Medallia, Inc.	Exhibit 2 to the summary judgment response is EchoSpan's amended trade secret disclosure. Almost everything (if not everything)	

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					in it is public available information. In any event, there is no basis for EchoSpan to whole seal the entire document rather than make redactions. For example, EchoSpan cannot seriously maintain that the legal arguments contained in the disclosure are confidential.	
Yellow Highlighted Portions of Exhibit 8 to EchoSpan's Response to Medallia's Motion for Summary Judgment (except on page 144)	235-7	EchoSpan, Inc.	Reflects identity of confidential client	Medallia, Inc.	As discussed above, the client is not confidential.	
Yellow Highlighted Portions of Exhibit 11 to EchoSpan's Response to Medallia's Motion for Summary Judgment	235-10	EchoSpan, Inc.	Describes confidential client relationship and confidential business practices	Medallia, Inc.	The client relationship is not confidential, as Medallia has repeatedly shown. The purported "business practice" described	

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					<p>does not warrant sealing.</p> <p>In any event, there is highlighted information that is not the business practice or the client identity.</p>	
Exhibit 25 to EchoSpan's Response to Medallia's Motion for Summary Judgment (except portions unopposed noted above)	235-15	EchoSpan, Inc.	Contains extensive descriptions of and screenshots of EchoSpan's confidential and trade secret information	Medallia, Inc.	<p>There is no basis to seal the entirety of that 120-page exhibit. By way of example only, it is unclear how EchoSpan can maintain that paragraphs 119–122, which say nothing about EchoSpan's software tool and are general statements, should be sealed. Furthermore, the screenshots of EchoSpan's tool are publicly available or have publicly</p>	

Document at Issue	Docket No.	Moving Party	Moving Party's Support	Opposing Party	Opposition	Order
					available analogs.	
Yellow Highlighted Portions of Exhibit 34 to EchoSpan's Response to Medallia's Motion for Summary Judgment	235-16	EchoSpan, Inc.	Discusses EchoSpan trade secrets	Medallia, Inc.	The mere identification of a feature is not confidential.	
Yellow Highlighted Portions of Exhibit 39 to EchoSpan's Response to Medallia's Motion for Summary Judgment	235-18	EchoSpan, Inc.	Reveals confidential company pricing information	Medallia, Inc.	The pricing information is not confidential. The asking price was demanded by EchoSpan <i>before</i> the parties agreed to any NDA. This is information that EchoSpan voluntarily disclosed to Medallia without any confidentiality agreement in place. In any event, the NDA has expired by its own terms.	
Exhibit 40 to EchoSpan's Response to Medallia's Motion for Summary Judgment (except unopposed portions noted above)	235-19	EchoSpan, Inc.	Contains extensive financial information of EchoSpan and Medallia	Medallia, Inc.	Medallia has expressly excepted from its objection the portions of the report containing financial information.	

Document at Issue		Docket No.	Moving Party	Moving Party's Support	Opposing Party	Opposition	Order
						There is no basis to seal the <i>entire</i> document and EchoSpan provides no basis, thus failing on <i>its</i> burden.	
Yellow highlighted Portions of EchoSpan's Response to Medallia's Motion to Exclude		235-20	EchoSpan, Inc.	Confidential client communications	Medallia, Inc.	The identity of the client is not confidential, as Medallia has repeatedly shown. Also, there are some highlighted portions of this filing that have nothing to do with the customer, for which EchoSpan provides no basis for sealing.	
Medallia, Inc's Response to EchoSpan, Inc's Partial Motion for Summary Judgment	Pages: 12:3-4, 6-12, 16-17, 19; 13:18-19, 23	236-1	EchoSpan, Inc.	Contains or reveals the identity of EchoSpan's customers or former customers; contrary to Medallia's assertions, Dkt. 229, EchoSpan does not reveal the names of its customers (the webpage Medallia	Medallia, Inc.	The identity of the client is not confidential, as Medallia has repeatedly shown.	

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			points to as evidence that EchoSpan reveals is customer names is a webpage of a consultant, which lists <i>her</i> , not EchoSpan's, customers); moreover, as described in Dkt. 191, EchoSpan's obligations to protect its former client's identity also stems both from its contract with the customer and the nature of the dispute			
Exhibit G to Medallia, Inc.'s Response to EchoSpan, Inc.'s Partial Motion for Summary Judgment	236-7	EchoSpan, Inc.	Reflects EchoSpan's confidential server and security environment	Medallia, Inc.	This does not contain any confidential information. It contains a purported log of when <i>Medallia</i> employees allegedly accessed EchoSpan's free trial. As this information would be known by the users themselves, EchoSpan has no basis to assert its	

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					confidentiality.	
Yellow highlighted Portions of EchoSpan, Inc's Reply Brief in Support of Motion for Partial Summary Judgment	251-2	EchoSpan, Inc.	Reflects the identity of EchoSpan's former client	Medallia, Inc.	<p>The only information EchoSpan redacts is the identity of one of its former customers. As Medallia has previously pointed out, the confidentiality clause in EchoSpan's agreement with that former customer covers communications with that customer, but it does not apply to merely the identification of the former customer.</p> <p>As Medallia has previously shown, the information is already public. At least one employee of the former customer already posted publicly on her LinkedIn</p>	

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Document at Issue	Docket No.	Moving Party	Moving Party's Support	Opposing Party	Opposition	Order
					profile about how in June 2010 - March 2011 she "[o]n-boarded a new vendor, EchoSpan, to replace the Kenexa 360 feedback survey tool," "[i]ntegrated bank technology requirements within the EchoSpan solution (i.e. Simplified Sign On (SSO), associate data integration, email notification)," and "[c]ustomized and implemented EchoSpan solution to support: 2011 Enterprise 360 survey process (Leaders and Managers), 2011 GBAM Performance Survey process, On-boarding Assessments process	

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						(New Band 3), Competency and Skill Assessments (B4) process.” https://www.linkedin.com/in/lynn-barron-060b8722/details/projects/ . EchoSpan has also already publicly named its former customer in multiple filings <i>in this case</i> . See Dkt. 11 ¶ 5; Dkt. 24 ¶ 4.	
Medallia, Inc.'s Reply in Support of its Motion for Summary Judgment Page:	i:23; 8:8 (except second customer's name); 15:10, 11, 15-17; 4:14-15; 5:23; 6:9-12; 8:22	255-3	EchoSpan, Inc.	Reflects the identity of EchoSpan's former client	Medallia, Inc.	As discussed above, the identity of the client is not confidential.	
Ex. A to Medallia, Inc.'s Reply in Support of its Motion for Summary Judgment		255-2	EchoSpan, Inc.	Contains a description of functioning of EchoSpan's trade secrets.	Medallia, Inc.	This feature is publicly disclosed and nothing about the description is confidential.	
Medallia, Inc.'s Reply in	Pages: 1:13, 14-15, 17;	255-3	EchoSpan, Inc.	Contains or reveals the identity of	Medallia, Inc.	As Medallia has repeatedly	

Document at Issue	Docket No.	Moving Party	Moving Party's Support	Opposing Party	Opposition	Order
Support of its Motion to Exclude Testimony 2:1, 2, 16, 21, 22, 25; 3:2, 5, 19, 21-22, 27; 4:14, 17; 5:4, 15, 23; 6:14; 5:25; 6:3, 5; 10:11-12, 20			EchoSpan's customers or former customers Contains or reveals a description of EchoSpan's trade secrets		shown, the customer's identity and the alleged trade-secret descriptions are publicly available information.	
Redacted Corrected Exhibit A	Pages: 425:1-426:25	261-1	EchoSpan, Inc.	Contains or reveals a description of EchoSpan's trade secrets	Medallia, Inc.	The identification or mere existence of the feature is not confidential.

III. GROUNDS FOR SEALING

A. EchoSpan, Inc.

Pursuant to Local Civil Rule 79-5(c)(1), EchoSpan moves to seal portions of confidential Documents that contain details regarding: the identity of EchoSpan's confidential customers and commercially sensitive information about EchoSpan and its customer relationships. *See Dugan v. Lloyds TSB Bank, PLC*, No. 12-CV-02549-WHA (NJV), 2013 WL 1435223, at *2 (N.D. Cal. Apr. 9, 2013) ("There may be 'good cause' to seal records that are privileged, contain trade secrets, contain confidential research, development or commercial information, or if disclosure of the information might harm a litigant's competitive standing."); *see also Verinata Health, Inc. v. Sequenom, Inc.*, No. C 12-00865 SI, 2014 WL 12789020, at *1 (N.D. Cal. Aug. 8, 2014) (granting motion to seal "non-public, confidential, and proprietary information" where disclosure posed a substantial risk of negative impact on party's relationships and competitive interests); *Transperfect Glob., Inc. v. Motionpoint Corp.*, No. C 10-2590 CW, 2013 WL 209678, at *1 (N.D. Cal. Jan. 17, 2013) (granting motion to seal documents that contained proprietary information about party's business operations and technology).

1 Unredacted copies of the confidential documents have previously been filed.

2 **B. Medallia, Inc.**

3 The documents or portions of documents that Medallia seeks to seal consist of
4 communications and transaction information (or descriptions of communications) between Medallia
5 and an important customer that are subject to a confidentiality agreement and certain confidential
6 internal business or financial information, development discussions, or strategy. While Medallia
7 does not believe the identity of the customer itself is confidential, the communications and
8 transactional info are subject to a confidentiality provision in an agreement between Medallia and
9 that customer. The information also includes confidential information about different customers and
10 partners of Medallia. Finally, the information highlighted in blue and all of Exhibit B have been
11 designated by the deponent entity to be confidential and, as that entity is Medallia's customer,
12 Medallia seeks to honor that designation. Disclosure of such communications could upset the
13 customer and harm Medallia's existing customer relationships. "One factor that weighs in favor of
14 sealing documents is when the release of the documents will cause competitive harm to a business."
15 *Apple Inc. v. Samsung Electronics Co.*, 727 F.3d 1214, 1221 (Fed. Cir. 2013); *see also Nixon v.*
16 *Warner Commc'ns, Inc.*, 435 U.S. 589, 598 (1978) (explaining that courts have refused "to permit
17 their files to serve . . . as sources of business information that might harm a litigant's competitive
18 standing"); *Verinata Health, Inc. v. Sequenom, Inc.*, No. C 12-00865 SI, 2014 WL 12789020, at *1
19 (N.D. Cal. Aug. 8, 2014) (granting motion to seal information that poses a substantial risk of
20 negatively impacting relationships and competitive interests).

21 **IT IS SO ORDERED.**

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23 DATED: _____

24 Hon. Nathanael Cousins
25 United States Magistrate Judge
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